

FILED

July 1 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0083

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

GARY ARNOLD SAVAGE,

Defendant and Appellant.

FILED

JUL 01 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eileen A. Larkin, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until August 6, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 1<sup>st</sup> day of July, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
139 N. Last Chance Gulch  
P.O. Box 200145  
Helena, MT 59620-0145

By: *Eileen A. Larkin*  
Eileen A. Larkin  
Assistant Appellate Defender

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Eileen A. Larkin, being first duly sworn upon my oath, depose and state as follows:

1.     I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2.     In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter.

3.     The Appellant's brief was initially due on May 6, 2010. It is currently due on July 7, 2010. This is the third request for an extension of time.

4.     I have read the file and transcripts in this matter, *State v. Savage*, DA 10-0083, and I have performed legal research. I have discussed this matter with my client. I recently received documents that helped inform my analysis of the issues. I have been working on a draft of the opening brief.

5.     I have recently participated as co-counsel in filing the reply brief in *State v. Mullarkey*, DA-09-0516. I am currently working on opening briefs in this matter and *State v. Bullplume*, DA-10-0028 as well as reply briefs in *State v. Larson*, DA-09-0441 and *State v. Tirey*, DA-09-0522.

6. I have assisted the Chief Appellate Defender, Ms. Joslyn Hunt, with the filing of writs and with other administrative duties.

7. I will be out of the office from July 6 through July 8, 2010 to attend appellate training with the entire OAD staff. I have a pre-planned trip out of state from July 9 through July 14, 2010.

8. Additional time will be need upon my return in mid-July to finalize the opening brief and allow for my client's input.

9. I will work diligently to complete the matter in the time requested.

10. Opposing counsel has been contacted concerning this motion and does not object.

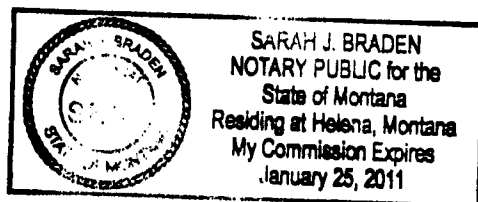
11. Further your affiant sayeth naught.

*Eileen A. Larkin*

Eileen A. Larkin

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of

July, 2010.



*Sarah J. Braden*

Sarah J. Braden

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing  
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

FRED R. VAN VALKENBURG  
Missoula County Attorney  
200 West Broadway  
Missoula, MT 59802

GARY SAVAGE 24307  
Montana State Prison  
700 Conley Lake Road  
Deer Lodge, MT 59722

DATED: 7/1/2010 Sarah Braden